

**TOWN OF BARNSTABLE
TOWN COUNCIL MEETING
June 17, 2010**

Council President Frederick Chirigotis called the meeting of the Barnstable Town Council to order at 7:05 PM, on Thursday, June 17, 2010, at the Barnstable Town Hall, 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA 02601.

PRESENT: Richard Barry, Janice Barton, Ann Canedy, Frederick Chirigotis, James Crocker, Jr., Debra Dagwan, Henry Farnham, Janet Joakim, J. Gregory Milne, James Munafo, Jr., John Norman, Thomas Rugo, and James M. Tinsley, Jr.

President Chirigotis led the Council in the Pledge of Allegiance and a moment of silence.

Community Preservation Committee Update

Laura Shufelt, Vice Chairman of the Community Preservation Committee, apprised the council of her committee's dwindling funding. She reviewed the uses of the funds and the requests in progress on other buildings in the community. She estimates \$3M in funding and the committee has to decide, based on the council's priorities, what to put forward first. They are also receiving requests from private historical buildings on town sponsored lands and "in-between" buildings such as libraries. President Chirigotis asked that requests be forwarded to the council in printed form so they can be discussed.

Alicia Stanley, Project Manager, updated the council on the progress of the town hall exterior renovation. Site assessments are being completed on other town structures. The final reports should be ready by the end of July along with the dollar figures. She also reported on some other non-municipal projects that have been funded by money from the CPA and the status of that work. Funding of drainage work with CPA money is valid because it is necessary to prevent deterioration of the structure.

President Chirigotis suggested working on revisions of the sign ordinance for all villages – village by village.

PUBLIC COMMENT

Alan Burt, a homeless outreach worker, said there has been a reduction of homeless to about 800 people. He explained that the Noah Shelter is a safety net and the number of beds should not be reduced - the beds are still needed. He suggested a meeting with all Cape town managers to discuss joint efforts and stated that neither HAC nor Rick Presbrey should be under fire.

The following individuals with first-hand experience as residents of the Noah Shelter spoke: Pamela Dee, Jennifer King, Darrell Gray, Luis Smith, Amy Eldridge, Ken Cutty, Ron Schyler, Caroline Marshall, Sharon Toby Kennedy, Peter Jepson/Jefferson?, Billy Bishop, and Miriam Catalano. They shared the circumstances of their homelessness that caused each of them to seek assistance at the Noah Shelter. They described how each of them were able to thrive, find employment and, finally, live independently again. Several speakers obtained educational certifications or began degree programs while living at the shelter. In addition, several speakers pointed out that at the Noah Shelter, people have to be in by 4:30 PM and may not leave until 8:00 AM. People who are causing problems on the streets of Hyannis during the night are not Noah Shelter people, but individuals staying at cheap motels. President Chirigotis, in answer to a question, said that the council has no authority or say in the matter of number of beds at the shelter.

Maryann Barboza announced that she will be submitting a petition for a recall of Councilor Dagwan because she can't believe that anyone would consider closing the shelter.

Deborah Converse, Hyannis Area Chamber of Commerce spoke about the Main Street Initiative to provide housing using a 'housing first' model, not a shelter. No one representing HAC attended any Initiative meetings. A written contract by the Commonwealth states that the Noah Shelter would decrease beds; the shelter is a failed model. She asked all parties to get together to find a solution.

Mark Stanley said having open house signs picked up by the town hurts the sales effort in what is the worst real estate market in decades. The temporary signs are the best advertising especially for location and need to be allowed.

Rick Brigham agreed that the Main Street issues are not directly related to the Noah Shelter. A small percentage of Noah clients are problematic.

Al Baker made some announcements of Marstons Mills's activities. He would like to put a group together to pick up litter and gave his phone number.

Jacques Morin also spoke on the sign code with respect to real estate. While the sign code changes for Main St. is wonderful, each village has similar activities and is pleased that there are plans for other villages to be included. Real estate signs have not presented a problem and will go away once the property sells. Removal of Open House signs presents a problem when the road is not listed in Mapquest, etc.

Rick Presbrey feels the Noah Shelter and the Main Street problem need to be discussed and he suggests a solution driven dialogue. He has tried his best to make the world a better place. He is willing and anxious for the kind of dialog with the council that could spawn a reasonable solution.

COUNCILOR RESPONSE

Councilor Barton, liaison to the Human Service Committee, asked the council to refrain from responding to the comments this evening. She would support a workshop. There are good people on every side of the question and good people in the middle who do not have a place to sleep. Councilor Canedy spent some overnights at the shelter and has seen many successes. She would like to see a continuation of dialogue and compromise for a solution. Councilor Dagwan supports the idea of a workshop for solutions to the homeless issue and suggested that someone from the funding arm of the state discuss how shelters are assessed.

Councilor Joakim understands the frustration of the businesses regarding signs. The regulations have to be addressed village-by-village. Councilor Milne stated that open house signs are by definition temporary. Councilor Canedy suggested the use of temporary signs should be discussed and be clear. President Chirigotis requested the Planning Board discuss how the sign regulations can be applied in all the villages.

Councilor Farnham thanked Chris Kehoe for the tee shirts and also pointed out that the Father's Day Car Show in Hyannis is free. Councilor Dagwan supports a workshop to solicit solutions for the shelter and feels someone from the state knowledgeable in this area should be invited.

Councilor Munafo suggested having Communications from staff, etc. at this time. President Chirigotis obliged.

Councilor Munafo wanted to clarify that the council had never indicated what sign laws would or would not be enforced. He also asked about some important late files which he did not want to see come up during the summer schedule.

Councilor Tinsley spoke about the Big Brothers/Big Sisters Program. Scott Gaffe, Captain of the Prime Rate along with his first mate Caleb and Dan Hannon, Captain of the Salt Shaker, along with his first mate Ed, took out a bunch of children for a wonderful fishing experience.

Councilor Canedy announced that former councilor Gloria Rudman was named The Mercy Otis Woman of the Year.

ACT ON MINUTES

Upon a motion duly made and seconded it was voted to adopt the minutes of May 20, 2010 with the following correction made by Councilor Milne: on page 3, replace "The three" with "At that time Councilors Milne, Elrick and Clark" to the second sentence under COUNCILOR RESPONSE, Councilor Milne.

VOTE: 11 yes 2 abstentions

Upon a motion duly made and seconded it was voted to adopt the minutes of June 3, 2010 as presented.

VOTE: Unanimous

ORDERS OF THE DAY

OLD BUSINESS

2010-151 APPROPRIATION & TRANSFER - \$1,024,146 FOR THE REPLACEMENT OF BARNSTABLE HIGH SCHOOL TRACK AND ATHLETIC FIELD

Asst Manager Lynch gave the rationale.

Patrick Murphy, School Committee Chairman, said the department has gone through a very large reorganization and this project would be the capstone.

Patricia Grenier, Superintendent, said the need was established when the first \$80,000 was approved. There is still \$790,000 in the school sale account and she is expecting a \$500,000 reimbursement on the heating system. A favorable bid from the engineering firm is saving over \$200,000 on each project and the possible sale of another school would be additional revenue.

David Lawlor said this was not a fly-by-night expenditure. Proposals have been offered for several million more, however, there are no bells and whistles - just the track and the field.

Upon a motion duly made and seconded the public hearing was opened at 8:28 PM.

VOTE:

Patrick Clark, the newly hired high school principal, said the monies speak to a wellness commitment from the community. The track and the field are used by all ages at all times.

Joel O'Brien read a letter from Clyde Takala, Chairman, Barnstable Recreation Commission. (Exhibit A) Artificial turf is safer than natural grass. He urges support because the time is right for this project.

Doug Crook, football coach, said it is an all-purpose field for all sports.

Steve Francis, BHS Athletic Director, also addressed the advantages of the turf rather than grass; there will be less wear on the artificial fields.

Fran McDonald, Vice Chairman of the School Committee urges support. As a parent, there have been a variety of activities on the field – music, graduations, etc. that people attend. Mass Maritime Academy has used the same company to construct their fields.

Dan Hensen, a parent of two who play football and run track, said his children have never run at a home meet. He encouraged a Yes vote.

Chis Joyce, President of the Barnstable Youth Football Program and a graduate of BHS recalls when grass was OK because of the limited use. Grass cannot withstand the magnitude of the use. He would support this item.

Upon a motion duly made and seconded the public hearing was closed at 8:42 PM.

VOTE: No objection

A motion was made and seconded to move the question.

VOTE: 8 Yes, 5 No

2010-151 APPROPRIATION & TRANSFER - \$1,024,146 FOR THE REPLACEMENT OF BARNSTABLE HIGH SCHOOL TRACK AND ATHLETIC FIELD

Upon a motion duly made and seconded it was

ORDERED: That the sum of \$1,024,146 be appropriated for replacement of the Barnstable High School track and athletic field; and that to meet this appropriation, the sum of \$1,024,146 be transferred from the sale of real estate account where the proceeds from the sale of the Grade 5 School building are held in accordance with state law.

VOTE: 10 Yes, 3 No (Roll Call) (Barry, Farnham, Norman)

Recess 8:45 – 8:50 PM

2010-148 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded it was

RESOLVED, that the Town appoint the following individuals to a multiple-member board/committee/commission:

HOUSING COMMITTEE

Janet M. Daly, 68 Center Street, Unit 12, Hyannis, as member to a term expiring 6/30/13

COUNCIL ON AGING

Nancy Wilder Boudreau, 29 Curry Lane, Osterville, as an associate member to a term expiring 6/30/11

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-148

VOTE: Unanimous

2010-149 APPROPRIATION-\$639,831 OF COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES FOR CPC ADMINISTRATIVE EXPENSES

Upon a motion duly made and seconded the public hearing was opened at 8:52 PM.

VOTE: No objection

Assistant Town Manager, Thomas Lynch gave the rationale.

Upon a motion duly made and seconded the public hearing was closed at 8:54 PM.

VOTE:

2010-149 APPROPRIATION-\$639,381 OF COMMUNITY PRESERVATION FUND RESERVE SET-ASIDES FOR CPC ADMINISTRATIVE EXPENSES

Upon a motion duly made and seconded it was

ORDERED: That, pursuant to the provisions of G. L. c. 44B § 6, for the fiscal year ending June 30, 2011, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: Two Hundred Thirteen Thousand One Hundred and Twenty Seven and No/100 (\$213,127.00) Dollars for open space; Two Hundred Thirteen Thousand One Hundred and Twenty Seven and No/100 (\$213,127.00) Dollars for historic resources; Two Hundred Thirteen Thousand One Hundred and Twenty Seven and No/100 (\$213,127.00) Dollars for community housing; and that the sum of One Hundred Thousand and No/100 (\$100,000.00) Dollars be appropriated from the annual revenues of the Community Preservation Fund

to be expended under the direction of the Town Manager, or the Community Preservation Committee with the prior approval of the Town Manager, for appraisal, title search, hazardous materials assessment, consulting services, and pre-development costs, and administrative expenses, and to assist in the development and performance of contracts for community preservation.

VOTE: 13 Yes (Roll Call)

2010-150 APPROPRIATION \$2,947,748 FY11 COMMUNITY PRESERVATION FUND DEBT SERVICE

Assistant Manager Lynch gave the rationale.

Upon a motion duly made and seconded the public hearing was opened at 8:55 PM.

VOTE: No objection

Upon a motion duly made and seconded the public hearing was closed at 8:55 PM.

VOTE: No objection

2010-150 APPROPRIATION \$2,947,748 FY11 COMMUNITY PRESERVATION FUND DEBT SERVICE

Upon a motion duly made and seconded it was

ORDERED, That the Town Council hereby appropriate \$2,947,748 for the purpose of paying the FY11 Community Preservation Fund debt service requirements, and to meet such appropriation, that \$2,886,401 be provided from current year revenues of the Community Preservation Fund and that \$61,347 be provided from surplus funds reserved for the open space program within the Community Preservation Fund.

VOTE: 13 Yes (Roll Call)

2010-123 AMEND C. 240 OF THE ZONING ORDINANCE – SIGN REGULATIONS

Assistant Manager Lynch gave the rationale.

Joanne Buntich discussed the substitute motion revised by the planning board. She reviewed some of the changes in the ordinance.

Upon a motion duly made and seconded the public hearing was opened at 9:05 PM.

VOTE:

Debroah Converse from the Hyannis Area Chamber of Commerce said the directors suggested passing the ordinance. It brings clarity and a good example. They also urge revision of other village sign regulations.

Ann Mariscotti, an Osterville business owner, explained that, if the regulation applied to Osterville, she would qualify for a hardship location since her business is at the end of a long hallway. President Chirigotis has asked the planning board to consider the other village centers and they will take it up.

Elizabeth Wurfbain, Hyannis BID Director, is pleased that the planning board has listened to the thoughts of business people. She would like other Main Streets in other villages to have a similar process.

Stanley Homey, Centerville, said more signage is needed and appreciates a vote in favor.

Upon a motion duly made and seconded the public hearing was closed at 9:10 PM.

VOTE: No objections

Councilor Canedy points out that allowing banners that say “Open” was omitted and feels that businesses in other villages have as much a need to get the word out. Director Buntich said there was no prohibition of “Open” on banners. They do not want to dictate the words that the business chooses.

Councilor Farnham asked about the additional burden on staff and the ramifications on the budget. Thomas Geiler, Consumer Affairs Director, said significant costs come with any change in the sign code. He suggested some changes to several of the onerous requirements that are time-consuming and will cost “a fortune.” He suggested a simple change to allow not-for-profits to put out flags with a change in the need for a permit to avoid having to “chase them down.” In addition he suggested changing some of the requirements for special permits. Councilor Barry suggested the planning board confer with Director Geiler on improvements and streamlining.

Asst. Manager Lynch said the town manager met with the planning board and growth management regarding compromise measures. As the planning board revisits this issue town-wide perhaps the process could be simplified. Director Buntich said she is preparing already for handling this. She elaborated on several options and alternatives.

Councilor Joakim said the Main Street businesses really want this and urges passage.

Councilor Milne would rather vote to freeze and revoke any sign ordinances for the whole town while something of quality is created that allow all businesses to breathe for this summer season. Milne made such a motion which was seconded.

Town Attorney Ruth Weil said it could be done but the motion does not fit within the four corners of the amendment. Such a change would have to follow the process of a hearing, etc. There was not interest in directing the town manager to initiate a 90 day freeze.

Councilor Norman said Cape Cod does not look like Coney Island and a suspension would allow all variety of signs and make them preexisting conditions. Councilor Tinsley said there are only 32 businesses on Main Street – they have their A-frames ready. This is needed now. The economy has been bad and he doesn’t want to put a road block in the way.

Councilor Rugo will support the item. Past practice has been non-enforcement.

A motion was made and seconded to move the question.

VOTE: Unanimous

2010-123 AMEND C. 240 OF THE ZONING ORDINANCE – SIGN REGULATIONS

Upon a motion duly made and seconded it was

ORDERED, that Chapter 240, The Zoning Ordinance of the Town of Barnstable, Article VII, Sign Regulations be amended by adding the following:

Section 1

§ 240-60 Definitions is hereby amended by adding the following definitions and inserting them where they appear alphabetically within the existing definitions:

Location Hardship Sign: A temporary portable sign allowed in the HVB for a business demonstrating a location hardship, as further defined herein, to identify and/or direct patrons to their business. Such locations are ones where:

- (1.) A permitted sign is not visible due to substantial obstruction(s) outside the control or ownership of the business owner including but not limited to other signs, awnings, trees in leaf, outdoor dining or other business appurtenances or where building facades are excessively setback or
- (2.) Due to the location on an upper floor the business is unable to display a trade figure or symbol or a trade flag or

(3.)Where, due to the upper floor location, the visibility of other permitted signage is substantially reduced.

Hardship location signs are not counted toward the amount of signage allowed.

Trade Figure or Symbol: A three dimensional representation of a business that is used to indicate the type of merchandise or services offered by the business. Trade Figures or Symbols shall be still and silent. Business trade figures are not counted towards the amount of signage allowed.

Trade Figure or Symbol Example -
Butcher Shop



Open/Closed Sign: A business in the HVB may display a sign, which may include a neon sign, as defined herein, indicating whether it is open or closed. Open/Closed signs are not counted towards the amount of signage allowed. A neon sign is made of glass tubes filled with an inert gas such as neon or argon electrified to produce illumination. This provision is an exception to Section 240-24.1.10 A(6).

Trade Flag: Any sign consisting of lightweight fabric that is affixed to a pole displaying letters, designs or icons exemplary of the business displaying the flag. Such images shall be consistent with the historical heritage and character of Hyannis. Trade flags are not counted towards the amount of signage allowed.

Section 2

§ 240-61. **A. Prohibited Signs** is hereby amended by adding the following language shown in **bold face type**:

A. Any sign, all or any portion of which is set in motion by movement, including pennants, banner or flags, **with the exception of Trade Flags in the HVB** and except official flags of nations or administrative or political subdivisions thereof.

B. Any sign which incorporates any flashing, moving or intermittent lighting. **Such signs include LED (Light Emitting Diode) signs; LED Border Tube signs including any sign that incorporates or consists solely of a LED border tube lighting system; and simulated neon signs which are extremely bright backlit signs using fluorescent lamps and neon colored inks or translucent vinyl for lettering and display.**

H. Any portable sign, **with the exception of a Location Hardship Sign in the HVB**, including any sign displayed on a stored vehicle, except for temporary political signs.

Section 3

§ 240-71 **Signs HVB District** is hereby amended by inserting the following:

E. Open/Closed Sign, Business Trade Figure or Symbol, Trade Flag or Location Hardship Sign: Subject to § 240-85 **Permit required; identification stickers.**

1. **Trade Flag:** A business may display a trade flag to identify and/or direct patrons to their business provided that the following standards are met:
 - a. The Trade Flag is attached, at a public entrance, to the building façade in which the business is located.
 - b. Only one (1) Trade Flag per business establishment is permitted per building façade as may abut any street.
 - c. A Trade Flag may not be used in conjunction with an Open/Closed sign or Business Trade Figure.
 - d. The dimensions of any Trade Flag shall not exceed three (3) feet x five (5) feet.

2. **Open/Closed Sign.** A business may display a sign to identify and/or direct patrons to their business provided that the following standards are met:
 - a. The Open/Closed Sign is attached, at the public entrance, in a display window or door of the building in which the business is located.
 - b. Only one (1) Open/Closed Sign per business establishment is permitted per frontage.
 - c. An Open/Closed Sign may not be used in conjunction with a Trade Flag or Business Trade Figure or Symbol.
 - d. The dimensions of any Open/Closed Sign shall not exceed 22” by 14”.

3. **Trade Figure or Symbol:** A business may use a three dimensional representation of their business providing the following criteria are met:
 - a. The Business Trade Figure or Symbol is placed at the public entrance immediately abutting the building front or is affixed to the front façade of the building in which the business is located. Such figures or symbols shall not be located on Town property.
 - b. The Business Trade Figure or Symbol represents the business and or its services and is based on historic trade representations.
 - c. Only one (1) Business Trade Figure or Symbol per business establishment is permitted.
 - d. Business Trade Figure or Symbol may not be used in conjunction with an Open/Closed sign or a Trade Flag.
 - e. The dimensions of any Business Trade Figure or Symbol shall not exceed two (2) feet x three (3) feet x (4) four feet.
 - f. Business Trade Figure or Symbol shall be secured as necessary so that it does not create nuisance or hazard under any conditions to pedestrians, motorists or business patrons.
 - g. Business Trade Figure or Symbol shall not obstruct safe passage or impeded accessibility on the sidewalk and shall not obstruct views to another business or business sign.
 - h. Proof shall be submitted demonstrating to the satisfaction of the Building Commissioner that explicit written permission has been given by the owner of the property proposed for locating the Trade Figure or Symbol.

4. **Location Hardship Sign:** These signs are allowed in the HVB District, provided that a special permit is obtained from the Planning Board subject to the provisions of § 240-125C herein and subject to the following criteria and performance standards.
 - a. **Criteria**
 1. Applications for Location Hardship signs shall demonstrate through visual evidence substantial obstruction or other substantial location hardship as defined herein.
 2. One (1) Location Hardship Sign is permitted per each business frontage.
 3. Evidence demonstrating to the satisfaction of the Planning Board and the Building Commissioner that explicit written permission has been given by the owner(s) of the property proposed for placing the sign that is the subject of the special permit application.
 4. Where the Location Hardship sign is within the Hyannis Main Street and Waterfront Historic District a certificate of appropriateness shall be obtained prior to and submitted with the application for special permit
 5. Where the Location Hardship Sign is proposed on town property, the following additional criteria shall be met:
 1. Proof of receipt of a license from the Town Manager or designee for the sign at the proposed location;
 2. Proof of insurance consistent with this license from the Town Manager or designee shall be provided to the Planning Board and the Building Commissioner prior to placing any approved sign.
 - b. **Performance standards:**
 - Location Hardship signs:**
 1. Shall not exceed two (2) feet by four (4) feet.
 2. Shall be secured as necessary so as not to create nuisance or hazard to pedestrians, motorists or business patrons under any conditions.
 3. Shall not obstruct safe passage or impede accessibility on the sidewalk.

4. Shall not obstruct views to another business or business sign.
5. Shall be professionally made, professionally painted and well- maintained. Hand lettered signs shall not incorporate informal, irregular hand lettering.
6. Shall not be illuminated.
7. Shall not have lights, banners, flags or similar objects placed on or adjacent to the sign.
8. Shall be placed on the sidewalk leading to the public business entrance.
9. Shall be removed at the close of business each day.
10. Shall not be displayed outside of business hours.

VOTE: 13 Yes (Roll Call)

2010-122 AMEND ZONING ORDINANCE CHAPTER 240, ARTICLE III - ADDING MARSTONS MILLS VILLAGE DISTRICT (MMVD)

Upon a motion duly made and seconded the public hearing was opened at 9:37 PM.

VOTE:

Director Buntich gave the rationale.

Craig Larsen, President of the Marstons Mills Village Association, said they are in favor.

Upon a motion duly made and seconded the public hearing was closed at 9:42 PM.

VOTE: No objection

A motion was made and seconded to move the question.

VOTE: Unanimous

2010-122 AMEND ZONING ORDINANCE CHAPTER 240, ARTICLE III - ADDING MARSTONS MILLS VILLAGE DISTRICT (MMVD)

Upon a motion duly made and seconded it was

ORDERED

That Chapter 240, Article III of the Zoning Ordinance is hereby amended as follows:

Section 1:

Adopts a new Section 240-24.2 titled Marstons Mills Village District (MMVD)

Section 2:

Amends the Zoning Map to rezone the VB-A Zoning District located near the intersection of Route 149, River Road and Main Street in the Village of Marstons Mills to MMVD and RF as shown on the map (to be entered once official map is created)

Section 3:

Amends Section 240-5, Establishment of Districts by adding “MMVD – Marstons Mills Village District” to the listing of Commercial Districts.

Section 4:

Amends Section 240-67 that now reads “Signs in the CVD, OM, HG, TD, VB-A, and VB-B District” to read “§ 240-67 Signs in the CVD, OM, HG, TD, VB-A, VB-B, and MMV Districts”

Section 5:

Amends Section 240-125.B (1) (e) Use Variances, to read:

“Use Variances: To authorize variances for uses in accordance with the provisions of this ordinance provided, however, that no such variances shall be granted within; three hundred (300) feet of the major arteries known as Route 28, Route 132, Route 149 and West Main Street, within the Marstons Mills Village District (MMVD) and within 300’ of the MMVD boundary.

Section 1:

To amend the Zoning Ordinance of the Town of Barnstable, Chapter 240 of the General Ordinances of the Code of the Town of Barnstable, Article III, District Regulations by adding a new Section 240-24.2, Marstons Mills Village Zoning District, to read as follows:

§ 240-24.2. Marstons Mills Village Zoning District

A. Principal Permitted Uses. The following uses are permitted in the Marstons Mills Village Zoning District (MMVD). Uses not expressly allowed are prohibited.

1. Professional or business office
2. Medical or dental office
3. Branch office of a bank or credit union, excluding drive through banking
4. Small scale retail
5. Small scale food service
6. Mixed use development where the building footprint does not exceed 5,000 SF and total gross floor area does not exceed 10,000 SF with retail or office use on the first floor, residential apartment units above not to exceed 4 apartment units.
7. Bed and breakfast within an owner-occupied single-family residential structure subject to the provisions of § 240-11C (6) except Subsections (b) [1] and [2]. No more than six (6) total rooms shall be rented to not more than 12 total guests at any one time. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests.
8. Single family residential dwelling (detached)

B. Accessory Uses. In addition to Article V Accessory Uses herein, the following uses are also permitted as accessory uses in the MMV District.

1. Apartment incidental to a non-residential use.
2. Automated banking facilities (ATM) within a principal building or a walk up ATM facility located in a side or rear yard.

C. Conditional Uses. The following uses are permitted as conditional uses in the MMV District, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and the specific standards for such conditional uses as required in this section:

1. Mixed use development in excess of that permitted as of right above provided;
 - a. The building footprint does not exceed 5,000 SF and total gross floor area of the building does not exceed 13,300 SF,
 - b. Retail or office use on the first floor with residential apartment units above,
 - c. The number of residential apartment units does not exceed 7,
 - d. Effluent from the on-site septic system for the mixed use development complies fully with all Board of Health regulations without relief or variances from the Board of Health nitrogen standard for this area, and
 - e. The location of the mixed use development is appropriate and compatible with abutting uses and supports abutting uses.
2. Health clubs.
3. Artist's lofts.
4. Art galleries.
5. Museums.
6. Performing arts facilities.
7. Educational institutions.
8. Bed-and-breakfast inns within an owner occupied structure that exceed the provisions of Accessory Uses permitting provided the on-site septic system complies fully with all current Board of Health regulations.
9. Not for profit fraternal or social organizations.

D. Special Permit Standards. In addition to the standards for the grant of a special permit set forth in § 240-125C, the grant of any special permit within the MMVD requires findings to support that the development meets one or more of the following criteria:

- (a) The development maintains or improves pedestrian access and outdoor public spaces;
- (b) The development contributes to the historic character of the Marstons Mills Village area;

- (c) The development eliminates or minimizes curb cuts and driveways on Route 149 and River Road;

E. Bulk Regulations

		Minimum Yard Setbacks				
Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Front ⁴ (feet)	Side (feet) ¹	Rear (feet) ¹	Maximum Building Height (feet)	Maximum Coverage by Structures as a % of Lot Area ³
10,000	20	10	0	0	30 ²	20%

Notes:

1. A minimum 30 feet side or rear yard setback is required where lot boundaries abut a residential district.
2. Or two and one half stories, whichever is less, and except that;
 - The Maximum Building Height may be increased to 36 feet when the roof pitch is at least 6 in 12.
 - Accessory rooftop equipment may extend to 36 feet provided that it is set back from all exterior wall(s) by at least 10 feet, and is enclosed or screened with materials compatible with the building, and the equipment and screening are not visible from the ground. Accessory equipment shall not exceed 20% of the roof area.
3. 30% of the total upland area of the lot shall remain pervious and may contain landscaping, tree plantings, mulch or natural vegetation including the requirements of 240-53.
4. Front yard Landscape Setback from the road lot line shall be 10 feet. Existing trees and shrubs shall be retained within the road right of way and within the required Front Yard Landscaped Setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the Front Yard Landscaped Setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three (3.0) inches, shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives, and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any Site Plan approved pursuant to Article IX herein.

F. Special Permit for Dimensional Relief. The SPGA may provide relief from minimum yard setbacks where the boundary does not abut a residential district, facade length requirements or ground floor window requirements when such relief is consistent with this section and § 240-125C.

G. Non-Conforming Use limitations. Within the MMVD the change of a non-conforming use to another non-conforming use is prohibited notwithstanding the provisions of Section 240-94.A. A nonconforming use shall only be permitted to change to a Principal Permitted Use as of right or to a Conditional Use as provided for by the grant of a special permit pursuant to Section 240-24.2.C and D herein.

H. Corporate Branding - Buildings, colors, signage, architectural features, text, symbols, graphics, other attention getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation is prohibited. All structures and sites shall be designed to include architectural and design elements that are consistent with the MMVD architectural composition, character, and historic context. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. The Town will work with applicants to adapt critical functional features of prototype plans to their sites, but will not accept standard plans, building forms, elevations, materials, or colors that do not relate to the site, adjacent development or Marstons Mills community character.

I. Design Guidelines. Within the MMVD the following design guidelines shall apply to all new buildings and structures and/or expansions and alteration to existing buildings and structures as follows:

1. Façade and Roof Standards

- (a) Facade length. Buildings or portions of a building with a mass over 50 feet wide must divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.
 - (b) Roof pitch. Roof pitch for new structures and additions to existing structures shall be within the range of roof pitches found on the main roofs of existing structures within the MMVD. Flat roofs may extend up to 20 linear feet only in combination with other pitched roof elements by right or, if greater than 20 feet with other pitched roof elements, through a special permit.
 - (c) Roofline variation. Roofline variation is achieved by visually and physically changing roof direction or off-setting roof peaks and ridgelines, both horizontally and vertically. The roofline shall be varied on all elevations visible from a street, parking area, or public space. Individual segments of the roofline shall not extend more than 30' in width measured horizontally.
2. Ground floor windows. Religious institutions are exempt from ground floor window requirements.
- (a) All new nonresidential development or redevelopment shall provide ground floor windows for facades facing the street, including windows that allow views into working areas or lobbies, pedestrian entrances, or display windows. The glazing pattern shall be aligned in regular and traditional patterns found within the MMVD.
 - (b) In new and redeveloped non-residential structures windows that block two-way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows along street facades.
 - (c) In new and redeveloped non-residential structures, any wall that is within 30 feet of the street shall contain at least 20% of the ground floor wall area facing the street in display areas, windows, or doorways. Blank walls, including walls that do not include display areas, windows, architectural features, and/or doorways, are prohibited.
3. All structures within the MMVD shall utilize at least four (4) of the following design features:
- Gables
 - Offsets on the building face or roof of at least two inches
 - Gable dormers
 - Cupolas or other appropriate roof elements
 - Covered porch or recessed entry area
 - Window shutters
 - Horizontal lap siding
 - Wood Shingles
4. Divided light windows Metal-sided buildings are prohibited within the Marstons Mills Village District.
5. Drive-through and drive-up windows are prohibited within the Marstons Mills Village District.
6. The design of all structures, and materials selected for their exterior surfaces, will utilize scale, color and materials that enhance and promulgate the traditional small-scale village character currently found in the MMVD.
7. Signs: In addition to compliance with Article VII, Sign Regulations, the following restrictions shall also apply to all signs in the MMVD.
- (a) Internally illuminated signs, halo and backlit signs are prohibited in the MMVD.
 - (b) Business identity, either by awnings, accent bands, paint or other applied color schemes, signage, decorative roof details or materials should not be the dominant architectural feature.
- H. **Site Development Standards.** In addition to Article IX, Site Plan Review and Article VI, Off-Street Parking the following additional requirements shall apply within the MMVD.
- 1. Loading docks. Loading docks shall be screened from Route 149, River Road and Main Street with landscaping or fencing materials of an appropriate scale.
 - 2. To the greatest extent feasible, all new parking areas shall be located to the side and rear of the building. Parking is not permitted in the required front yard setback with the exception of parking required by ADA compliance as determined by the Building Commissioner.
 - 3. Curb cuts and driveways.
 - (a) Shared driveways and parking area interconnections are strongly encouraged. No more than one curb cut on Route 149, River Road and Main Street shall be allowed for any lot. For traffic

safety and to maintain traffic flow, no new driveways shall be permitted on Route 149, River Road and Main Street within 200 feet of any intersection.

(b) Driveways shall not exceed the width required by Site Plan Review

4. Lighting.

(a) All developments shall use full cutoff light fixtures for exterior lighting in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.

(b) Flood, area and up lighting is prohibited.

J. Definitions. The following terms are defined for the purpose of the MMVD and shall not be construed to apply to other regulations

Apartment - One or more rooms with private bath and kitchen facilities comprising an independent self-contained rental dwelling unit (a unit not owned in fee simple) located in a building where the principal use is nonresidential.

Mixed Use Development - Development including at least one residential unit and at least one non-residential use on a single lot or several non-residential uses on a single lot. In the MMVD district for every four (4) apartment units permitted one (1) of those units shall be dedicated as affordable in addition to the provisions of Chapter 9 Inclusionary Affordable Housing Requirements.

Small-Scale Food Service – An establishment where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to corporate branding limitations as described herein. These uses are intended to increase pedestrian traffic.

Small-Scale Retail - Small stores and businesses, including but not limited to, corner groceries, artist space, bookstore, galleries and other small retail uses typically found in small New England towns. Small-scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline and oil filling stations, garages for automotive or machine repair. Small scale retail is subject to corporate branding limitations as described herein. These uses are intended to increase pedestrian activity.

VOTE: 13 Yes (Roll Call)

NEW BUSINESS

2010-156 ACCEPTANCE OF A PRICING/PRICE VERIFICATION GRANT

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council hereby accepts an Item Pricing/Price Verification Grant in the amount of \$25,000 from the Massachusetts Office of Consumer Affairs, Division of Standards, to be expended by the Regulatory Services Department, Consumer Affairs Division, to conduct Item Pricing/Price Verification Inspections throughout Barnstable County utilizing Division of Standards certified staff of the town.

Thomas Lynch gave the rationale.

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-156

VOTE: Unanimous

2010-157 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

Upon a motion duly made and seconded this item was referred to a second reading on July 15, 2010.

VOTE: Unanimous

LATE FILES

2010-158 RESOLUTIONS & ORDERS FOR INFRASTRUCTURE EXPANSION PROGRAM

Upon a motion duly made and seconded this item was referred to a public hearing on July 15, 2010.

VOTE: 11 Yes, 2 No (Canedy, Munafò)

2010-159 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

Upon a motion duly made and seconded this item was referred to a joint public hearing with the Planning Board on July 15, 2010.

VOTE: 12 Yes, 1 No (Munafò)

2010-160 AMEND CH.240, ART.II OF THE ZONING ORDINANCE & MAP

Upon a motion duly made and seconded this item was referred to a joint public hearing with the Planning Board on July 15, 2010.

VOTE: 12 Yes, 1 No (Munafò)

2010-161 ACCEPTANCE A \$1,990,000 GRANT FROM THE FEDERAL AVIATION ADMIN.

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council does hereby accept a supplemental grant award in the amount of \$1,990,000 from the Federal Aviation Administration and that the Barnstable Municipal Airport Commission is authorized to enter into contracts and to expend the grant monies for the purposes specified therein.

Airport Manager Bud Breault gave the rationale. This is an increase in ARRA funding. The total project cost is paid with no cost to the town.

A motion was duly made and seconded to amend Item 2010-161 to reflect the correct grant total of \$1,990,000 in both the title and the text.

VOTE: Unanimous

A motion was made and seconded to move the question.

VOTE: Unanimous

On Item 2010-161

VOTE: Unanimous

TOWN MANAGER COMMUNICATIONS - None

Upon a motion duly made and seconded it was voted to adjourn the meeting at 9:53 PM.

VOTE: Unanimous

Respectfully submitted,

Lucia Fulco,
Assistant Town Clerk